

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DAMONIE EARL, LINDA RUGG, ALESA	§	
BECK, TIMOTHY BLAKEY, JR.,	§	
STEPHANIE BLAKEY, MARISA	§	
THOMPSON, MUHAMMAD MUDDASIR	§	
KHAN, JOHN ROGERS, VALERIE	§	
MORTZ-ROGERS, LAKESHA GOGGINS,	§	
JAMES LaMORTE, BRETT NOBLE,	§	
RUBEN CASTRO, FRITZ RINGLING,	§	
LITUAN LEWIS, and LANCE HOGUE,	§	
JR., each individually and on behalf of all	§	Civil Action No. 4:19-cv-00507
others similarly situated,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
THE BOEING COMPANY and	§	
SOUTHWEST AIRLINES CO.,	§	
	§	
<i>Defendants.</i>	§	

SOUTHWEST AIRLINES CO.'S NOTICE OF RELATED CASE

Defendant Southwest Airlines, Co. (“Southwest”) hereby files this Notice of Related Case, showing as follows.

1. A group of named plaintiffs, represented by Hecht Partners LLP (formerly counsel for various Plaintiffs in this action), filed a putative class action against Southwest in the United States District Court for the Western District of Texas, Waco Division, styled *Christine Monahan, et al., individually and on behalf of all others similarly situated, v. Southwest Airlines, Co.*, Civil Action No. 6:21-cv-00887-ADA-JCM (the “Monahan Action,” see Dkt. 1 therein), and served Southwest on or about August 27, 2021.

2. The Complaint in the Monahan Action seeks for the named Monahan plaintiffs to represent a significantly overlapping class of Southwest ticket purchasers as that certified by this

Court as two subclasses of Southwest purchasers in this Court's Class Certification Order, Dkt. 470 at 82- 83 (Sept. 3, 2021) ("Order"), which is now the subject of a discretionary appeal before the Fifth Circuit Court of Appeals, *see* No. 21-40720 (Sept. 30, 2021). The proposed nationwide classes are largely the same (purchasers of tickets on Defendant Southwest, regardless of the aircraft type flown). The proposed class period is the same (the 18-months preceding the FAA's grounding of Boeing's 737 MAX 8 aircraft). The claimed injury is the same (a purported overcharge for the price of the Southwest tickets). And, although stated in terms of an alleged breach of contract rather than a federal RICO claim, the core factual allegations are the same (a purported years' long failure to disclose defects in the MAX aircraft leading to safety risks). *See* Dkt. 470 at 82-83; Monahan Action Dkt. 1 at, e.g., 2, 34-35, 45-48, 56.

3. In light of the foregoing, before Southwest was required to answer or otherwise respond in the Monahan Action, the undersigned counsel conferred with counsel for the Monahan Action plaintiffs regarding an agreed stay of the Monahan Action pending the outcome of this action and the pending Fifth Circuit Appeal. No agreement could be reached, and on or about October 26, 2021, Southwest filed in the Monahan Action (along with procedural page extension and sealing motions related its filing) Southwest's Motion To Stay, Transfer, Dismiss, and Strike ("Monahan Stay Motion"), which was ordered filed as of October 27, 2021. Monahan Action Dkt. 12 and 13. The Monahan Stay Motion seeks, *inter alia*, a stay of the Monahan Action pending the outcome of this case and the Fifth Circuit Appeal, or alternatively, transfer to the Northern District of Texas or dismissal for improper venue, dismissal for lack of standing and failure to state a claim, and/or the striking of the class allegations.

4. Although Local Rule CV-42 appears to require plaintiffs as the filing party to provide notice of collateral proceedings or re-filed cases, out of an abundance of caution, and in

light of the motion to stay or dismiss based upon this action and the pending Fifth Circuit appeal, Defendant Southwest hereby provides this Notice of Related Case.

Dated: November 3, 2021

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

/s/ Michael A. Swartzendruber

Michael A. Swartzendruber (Lead Counsel)

State Bar No. 19557702

Jason K. Fagelman

State Bar No. 00796525

James V. Leito IV

State Bar No. 24054950

Philip A. Tarpley

State Bar No. 24098501

2200 Ross Ave., Suite 3600

Dallas, TX 75201

Telephone: (214) 855-8000

Facsimile: (214) 855-8200

michael.swartzendruber@nortonrosefulbright.com

jason.fagelman@nortonrosefulbright.com

james.leito@nortonrosefulbright.com

philip.tarpley@nortonrosefulbright.com

Geraldine W. Young

State Bar No. 24084134

1301 McKinney St., Suite 5100

Houston, TX 77010

Telephone: (713) 651-5151

Facsimile: (713) 651-5246

geraldine.young@nortonrosefulbright.com

***ATTORNEYS FOR DEFENDANT
SOUTHWEST AIRLINES CO.***

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2021, a true and correct copy of the above was served via email through the Eastern District of Texas's CM/ECF system.

/s/ Philip A. Tarpley
Philip A. Tarpley